IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3836 OF 2003

Lt.Col.D.C.Dogra (Retd.) & ors. Applicants

versus

Col.Narendra Suri & others Respondents

Ms.Prettam Tendulkar i/by M.S.Karnik for applicants.

Mr.N.V.Gangal for respondent no.1.

Mrs.S.D.Shinde - APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2005

PC :

1. Rule. Returnable forthwith by consent. Respondents waive notice.

2. Aggrieved by the order passed by the Second Ad-hoc Additional Sessions Judge, Nashik in Criminal Revision Application No.590 of 2001 refusing to exercise revisional jurisdiction and interfer with an order rejecting an application for recalling of process, the petitioner-original accused has invoked this Court’s jurisdiction

under Section 482 of Code of Criminal Procedure.

3. After taking instructions from the applicants learned advocate appearing for them states that all that they pray is that the revision application challenging the order passed by the Trial Court be restored to the file of revisional court for disposal on merits and in accordance with law. She submits that the revision application is dismissed as not tenable without considering rival pleas on merits.

4. Her request is not opposed by Mr.Gangal appearing for the original complainant and he states that in the light of the decision of Supreme Court in the case of "Adalat Prasad", the revision application should have been entertained and disposed of on merits. Accordingly following order.

5. ORDER :-

a) The impugned order dated 27th June 2003 is quashed and set aside.

b) Revision Application No.590 of 2001 is restored to file for disposal on merits and

in accordance with law after hearing the applicants as well as first respondent.

c) All contentions on merits are expressly kept open.

d) Rule made absolute in the above terms. No order as to costs.

(S.C.DHARMADHIKARI, J.)